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January 17, 2005

Michael Leaoon, Supervisor
Plastic Recycling Technologies Section
California Integrated Waste Management Board
1001 I Street
Sacramento, CA 95814

Dear Mr. Leaoon:

The California Film Extruders and Converters Association (CFECA) is a statewide trade association representing manufacturers of plastic film and bags, equipment manufacturers, and raw material suppliers. CFECA respectfully takes this opportunity to provide the CIWMB with comments on the December 17, 2004 legislative recommendations regarding the proposed Trash Bag Report to the Legislature.

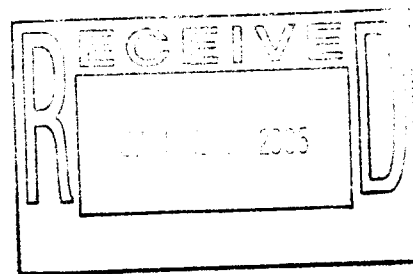
CFECA represents manufacturers of all film products targeted in the new recommendations. As California manufacturers, we are especially cognizant of the need for litter education and clean up, increased recycling of our products, and mechanisms that lower the amount of plastic film going into our state's landfills. We have also been supportive of industry proposals that would bring manufacturers together to participate in voluntary programs to achieve these goals.

The December recommendations have changed significantly from previous versions that CFECA opposed. The board staff and members working on this report have demonstrated that they are willing to listen to industry concerns and consider innovative ideas to achieve increased diversion rates.

However, as California manufacturers, we have several questions regarding the current recommendations and how they would affect the industry left in this state.

MOUs: CFECA members have asked how the MOU process would work. Those comments and questions include the following:

- ✓ The recommendations require the industry, our customers, local/state governments, recyclers and waste collectors to all agree on mandatory diversion rates and programs to achieve those rates. **How these very divergent interest groups would successfully negotiate and agree on mechanisms and diversion rates is difficult for us to comprehend.**



- ✓ It is admittedly difficult for the board to try and regulate trash bag manufacturers that produce bags outside of California, and outside of the United States. **How will the board force manufacturers outside of the state and country to participate in the MOUs?**
- ✓ The success of attaining the target diversion rates depends on all parties actively working to reduce plastic film going to landfills, otherwise a mil tax will be assessed. **What if some manufacturers DO participate, and some refuse? Will the mil tax be on every manufacturer's products, even the manufacturers that actually DID initiate film diversion activities? Why would anyone participate in the MOUs if their competitor decided not to?**

Time Frames: It appears to us that the time frames for negotiation of the MOUs and achievement of the diversion requirements are not workable. If the Legislature passes this bill and it is effective on January 1, 2006, **how would the board successfully negotiate the MOUs in one year's time?** There would be a minimum of five MOUs, according to the waste characterization study film categories, that would all be required to be negotiated with many entities. This does not seem like a realistic time frame.

If the MOUs were successfully negotiated by January 1, 2006, it would seem quite challenging to achieve the agreed upon diversion requirements by March 1, 2009. The mil fee would go into effect on July 1, 2009 if the diversion requirements are not met. **It is a challenge for the staff to conduct a limited number of compliance certifications for RPPC and trash bag manufacturers. How would the staff be prepared to assess the fee on thousands of products in six months time?**

Importers of bags from out of state: The report acknowledges the inability of the board to enforce the trash bag law on manufacturers from out of the state. **How would the board ensure that all manufacturers, wholesalers and distributors pay the mil fee? How do you force out of state manufacturers, wholesalers, and distributors to participate in the MOU's?**

Exempted products: While the report allows for an exemption for biodegradable products that meet ASTM D6400, the recommendations also include a provision that states "it is the Board's expectation that participants in the MOU process will develop programs/projects to divert exempted products". **If the products are exempted, it would be logical that the manufacturers of the products would not be participating in the MOUs. Why would the other manufacturers not exempted create programs to divert exempted products?**

Trash Bag Program: The report's recommendations relative to the repeal of the trash bag law are self-contradictory. In one section the recommendation calls for the law to be **repealed IF the mil tax is enacted**. In another section, the recommendations call for the law to be **repealed if new MOUs are negotiated and extended**. **If a clever trash bag manufacturer wanted to make sure that the law was repealed, they could (highly unlikely but plausible) sabotage the MOU process, or take actions to ensure that the diversion requirements are not met in order to succeed in having the trash bag minimum content requirements repealed.**

Finally, the report further confuses this issue by stating "the current trash bag would be repealed at the time when the diversion targets were either met or the mil fee is implemented for failure to meet those targets". **It seems that the conclusion here is the program should be repealed no matter what happens.**

We appreciate the opportunity to comment on the new recommendations. However, because the proposals are far reaching, we suggest that the Board spend additional time to get more input from affected manufacturers that have not been brought to the table as of yet.

Sincerely,



Cathy Browne, President
California Film Extruders and Converters Association
Crowne Poly Corporation

cc: Members, CIWMB